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Remarks

Claims 30, 32-34, 40-45 and 50-52 are pending in the present application. Claims 1-29, 31, 35-39 and 46-49 have been canceled. By the present amendment, claim 30 has been amended.

In the Office Action, claim 30 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner asserted that there was insufficient antecedent basis for the limitation "said semiconductor die" in line 8 of that claim. Applicant has amended claim 30 herein to change "said semiconductor die" to --said semiconductor chip-- in compliance with the statute. No new matter has been added. Accordingly, applicant respectfully requests that the rejection be withdrawn.

Also in the Office Action, claim 30 was rejected under 35 U.S.C. §102(b) as b ing anticipated by Hegel (U.S. 5,255,157). In addition, claims 32-44, 50 and 52 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hegel (U.S. 5,255,157) as applied to claim 33, and further in view of Juskey et al. (U.S. 5,336,931). Claim 45 was rejected as being unpatentable over Hegel and Juskey et al. as applied to claims 33 and 40, and further in view of Papathomas (U.S. 5,623,006) and Marrs et al. (U.S. 5,355,283).

Also in the Office Action, claims 30, 32-34, 40-45 and 50-52 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. 6,423,581. The Examiner asserted that although the conflicting claims are not identical, they are not patently distinct from each other because claim 4 recites a laminate having first and second surfaces with at least a void while the instant application claims a laminate with first and second major faces with at least one void in the laminate extending from one of the major faces. For the following reasons, applicant respectfully submits that the rejections are improper.

First, with regard to the obviousness-type double patenting rejection, applicant directs the Examiner's attention to the third sentence of 35 U.S.C. §121 that prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, as a reference against any divisional applications, if the divisional application is field before the issuance of the patent (see MPEP §804.01 Prohibition of Double Patenting Rejections Under 35 U.S.C. 121). The present application is a division of U.S. Serial No. 09/694,412 filed October 23, 2000 (now U.S. 6,423,581), which the Examiner cited as the basis for the instant rejection.

The present application was filed on January 24, 2002, which was prior to the issue date of U.S. 6,423,581 (July 23, 2002). Also, a restriction requirement was made in U.S. Serial No. 09/694,412 (now the '581 patent) on April 11, 2001 and the applicant elected claims 31, 35-39 and 46-48 for examination on the merits. Therefore, pursuant to 35 U.S.C. §121 and MPEP 804.01, U.S. Patent No. 6,423,581 cannot be relied upon in support of the instant obviousness-type double patenting rejection. Claims 30, 32-34, 40-45 and 50-52, which are pending in the present divisional application, were filed as a result of the restriction requirement in U.S. Serial No. 09/694,412 (now the '581 patent). Furthermore, the claims of this divisional application are consonant with the earlier restriction requirement, and have not been amended to include claims drawn to the invention claimed in the parent. See, e.g., *Gerber Garment Technology, Inc. v. Lectra Systems Inc.*, 916 F.2d 683, 16 USPQ2d 1436 (Fed. Cir. 1990). Accordingly, applicant respectfully requests that the rejection be withdrawn.

In granting the '581 patent, the USPTO has made the determination that the claims of the parent are patentably distinct from the cited prior art and allowable. Hegel, Juskey et al., Papathomas, and Marrs et al., which form the basis of the Examiner's anticipation and obviousness rejections in the present application, were considered in the parent (see IDS filed May 3, 2003). However, by asserting that the currently pending claims are directed to the same inventive concept with differing appearances or differing scope which are patently indistinct from the parent, and also

rejecting those claims as anticipated and obvious in view of art considered in the parent, the Examiner is casting doubt on the validity of an issued patent, which is not permitted. Once a patent examiner determines that claims in a patent application are allowable, a patent issues which is presumed to be valid (35 U.S.C. § 282). Applicant therefore submits that the rejections made pursuant to 35 U.S.C. §§102 and 103 are improper, as the cited references cannot be relied upon in support of such rejections for the above reason. Accordingly, applicant respectfully requests that the rejections be withdrawn.

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Conclusion

Applicants respectfully submit that, in view of the above amendments and remarks, the application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

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